IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 15 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

IQBALBHAI ISMAILBHAI MANSURI

Appearance:

1. INCOME TAX REFERENCE No. 15 of 1989
MR BB NAIK with MR MANISH R BHATT for Petitioner No. 1
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 04/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following questions are referred for the opinion of this Court in respect of assessment years 1977-78 to 1980-81 :-

"(1) Whether in law and on facts, the Appellate Tribunal is right in holding that provisions of section 60 of the I.T. Act, 1961 were not applicable and the addition of 20% share income from M/s Graduate Picker Works in the hands of the assessee could not be confirmed ?

(2) Whether, the Tribunal is right in law and on facts in holding that the trust was not revocable and the provisions of section 61, 63(a)(i) or 63(a)(iii) of the Income-tax Act, 1961 were not applicable?

(3) Whether, in law and on facts, the Tribunal is right in setting aside the order made by the Income-tax Officer and confirmed by the Appellate Assistant Commissioner ?"

2. We have heard Mr BB Naik, learned counsel for the revenue. Though served, none appears for the respondent-assessee.

3. Our attention is invited to the decision dated 12.9.2001 in Income-tax Reference Nos. 131 and 294 of 1987.

Having heard the learned counsel for the revenue and having gone through the aforesaid decision, we find no reason not to follow the same. Accordingly, following the aforesaid decision in Income-tax Reference Nos. 131 and 294 of 1987, we answer all the questions referred to us in the affirmative i.e. in favour of the assessee and against the revenue.

4. The reference accordingly stands disposed of with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-